

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1159**

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**Introduced by Senator Hernandez**

February 18, 2016

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An act to add Chapter 8 (commencing with Section 127670) to Part 2 of Division 107 of, and to repeal the heading of Chapter 8 (formerly commencing with Section 127670) of Part 2 of Division 107 of, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1159, as amended, Hernandez. California Health Care Cost and Quality Database.

Existing law establishes health care coverage programs to provide health care to segments of the population meeting specified criteria who are otherwise unable to afford health care coverage and provides for the licensure and regulation of health insurers and health care service plans.

This bill would require certain health care entities, including health care service plans, to provide specified information to the Secretary of California Health and Human Services. The bill would authorize the secretary to report a health care entity that fails to comply with that requirement to the health care entity's regulating agency and would authorize the regulating agency to enforce that requirement using its existing enforcement procedures.

The bill would require all data disclosures made pursuant to these provisions to comply with all applicable state and federal laws for the

protection of the ~~privacy and security~~ *privacy, security, and confidentiality* of data and would prohibit the ~~public disclosure of any unaggregated, individually identifiable health information.~~ *information or medical information. The bill would also require individually identifiable health information and medical information to be protected by security measures including, but not limited to, encryption.* The bill would require that certain confidentially negotiated contract terms be protected in data disclosures made pursuant to these provisions and would prohibit certain individually identifiable proprietary contract information from being disclosed in an unaggregated format. The bill would authorize the secretary to enter into contracts or agreements to share the information collected under the bill, under prescribed conditions.

This bill would also require the secretary to convene an advisory committee composed of a broad spectrum of health care stakeholders and experts, as specified, to identify the type of data, purpose of use, and entities and individuals that are required to report to, or that may have access to, a health care cost and quality database. The bill would require the secretary to arrange for the preparation of a report to the Legislature and the Governor, to be submitted by January 1, 2019, that examines and addresses specified issues, including, among others, containing the cost of health care services and coverage. The bill would prohibit members of the committee from receiving a per diem or travel expense reimbursement, or any other expense reimbursement.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. It is the intent of the Legislature in enacting this
- 2 act to make cost and quality data available and to encourage health
- 3 care service plans, health insurers, and providers to develop
- 4 innovative approaches, services, and programs that may have the
- 5 potential to deliver health care that is both cost effective and

1 responsive to the needs of enrollees, including recognizing the  
2 diversity of California and the impact of social determinants of  
3 health.

4 SEC. 2. The heading of Chapter 8 (formerly commencing with  
5 Section 127670) of Part 2 of Division 107 of the Health and Safety  
6 Code, as amended by Section 230 of Chapter 183 of the Statutes  
7 of 2004, is repealed.

8 SEC. 3. Chapter 8 (commencing with Section 127670) is added  
9 to Part 2 of Division 107 of the Health and Safety Code, to read:

10  
11 CHAPTER 8. CALIFORNIA HEALTH CARE COST AND QUALITY  
12 DATABASE  
13

14 127670. (a) (1) Solely for the purpose of developing  
15 information for inclusion in a health care cost and quality database,  
16 *and consistent with paragraph (9) of subdivision (b) of Section*  
17 *56.10 of the Civil Code*, a health care service plan, including a  
18 specialized health care service plan, an insurer licensed to provide  
19 health insurance, as defined in Section 106 of the Insurance Code,  
20 a supplier, as defined in paragraph (3) of subdivision (b) of Section  
21 1367.50, or a provider, as defined in paragraph (2) of subdivision  
22 (b) of Section 1367.50, shall, and a self-insured employer, a  
23 multiemployer self-insured plan that is responsible for paying for  
24 health care services provided to beneficiaries, and the trust  
25 administrator for a multiemployer self-insured plan may, provide  
26 all of the following to the Secretary of California Health and  
27 Human Services:

28 (A) Utilization data from the health care service plans' and  
29 insurers' medical, dental, and pharmacy claims or, in the case of  
30 entities that do not use claims data, including, but not limited to,  
31 integrated delivery systems, encounter data consistent with the  
32 core set of data elements for data submission proposed by the  
33 ~~APCD~~ *All-Payer Claims Database* Council, the University of New  
34 Hampshire, and the National Association of Health Data  
35 Organizations.

36 (B) Pricing information for health care items, services, and  
37 medical and surgical episodes of care gathered from allowed  
38 charges for covered health care items and services or, in the case  
39 of entities that do not use or produce individual claims, price  
40 information that is the best possible proxy to pricing information

1 for health care items, services, and medical and surgical episodes  
2 of care available in lieu of actual cost data to allow for meaningful  
3 comparisons of provider prices and treatment costs.

4 (C) Information sufficient to determine the impacts of social  
5 determinants of health, including age, gender, race, ethnicity,  
6 limited English proficiency, sexual orientation and gender identity,  
7 ZIP Code, and any other factors for which there is peer-reviewed  
8 evidence.

9 (2) (A) The secretary may report an entity's failure to comply  
10 with paragraph (1) to the entity's regulating agency.

11 (B) The regulating agency of an entity described in paragraph  
12 (1) may enforce paragraph (1) using its existing enforcement  
13 procedures. Notwithstanding any other law, moneys collected  
14 pursuant to this authorization shall be subject to appropriation by  
15 the Legislature, and the failure to comply with paragraph (1) is  
16 not a crime.

17 ~~(b) (1)~~ (A) *Subject to paragraph (9) of subdivision (b)*  
18 *of Section 56.10 of the Civil Code, all uses and disclosures of data*  
19 *made pursuant to this section shall comply with all applicable state*  
20 *and federal laws for the protection of the privacy and security of*  
21 *data, including, but not limited to, the Confidentiality of Medical*  
22 *Information Act (Part 2.6 (commencing with Section 56) of*  
23 *Division 1 of the Civil Code), the Information Practices Act of*  
24 *1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of*  
25 *Part 4 of Division 3 of the Civil Code), Title 1.81 (commencing*  
26 *with Section 1798.80) of Part 4 of Division 3 of the Civil Code,*  
27 *and the federal Health Insurance Portability and Accountability*  
28 *Act of 1996 (Public Law 104-191), and the federal Health*  
29 *Information Technology for Economic and Clinical Health Act,*  
30 *Title XIII of the federal American Recovery and Reinvestment*  
31 *Act of 2009 (Public Law 111-5), and implementing regulations.*

32 *(B) Use and disclosure of data pursuant to this section shall be*  
33 *consistent with privacy and security protections for individually*  
34 *identifiable health information and medical information under*  
35 *state and federal law, including any applicable exceptions to the*  
36 *requirement to obtain patient authorization, including, but not*  
37 *limited to, paragraph (9) of subdivision (b) of, and paragraph (7)*  
38 *of subdivision (c) of, Section 56.10 of the Civil Code.*

39 (2) (A) All policies and protocols developed pursuant to this  
40 section shall ensure that the privacy, security, and confidentiality

1 of individually identifiable health information *and medical*  
2 *information* is protected. The secretary shall not ~~publicly~~ disclose  
3 any unaggregated, individually identifiable health information *or*  
4 *medical information* and shall develop a protocol for assessing the  
5 risk of reidentification stemming from ~~public~~ disclosure of any  
6 health information *and medical information* that is aggregated,  
7 individually identifiable health ~~information~~ *information, or*  
8 *medical information*. *This paragraph does not preclude sharing*  
9 *individually identifiable health information that is not aggregated*  
10 *with researchers for research purposes, consistent with paragraph*  
11 *(7) of subdivision (c) of Section 56.10 of the Civil Code.*

12 (B) For the purposes of this paragraph, ~~“individually the~~  
13 *following terms have the following meanings:*

14 (i) *“Individually identifiable health information”* has the same  
15 meaning as in Section 160.103 of Title 45 of the Code of Federal  
16 Regulations.

17 (ii) *“Medical information”* has the same meaning as in Section  
18 56.05 of the Civil Code.

19 (3) Confidentially negotiated contract terms contained in a  
20 contract between a health care service plan or insurer and a provider  
21 or supplier shall be protected in any public disclosure of data made  
22 pursuant to this section. Individually identifiable proprietary  
23 contract information included in a contract between a health care  
24 service plan or insurer and a provider or supplier shall not be  
25 disclosed in an unaggregated format.

26 (c) The secretary may enter into contracts or agreements to share  
27 the information collected under this section for the purposes of  
28 this chapter, provided that any use of that information complies  
29 with the requirements of this section.

30 (d) (1) *The agency administering the California Health Care*  
31 *Cost and Quality Database shall adopt rigorous standards of*  
32 *security protection to ensure as nearly as possible that the*  
33 *information contained in and collected for the purposes of the*  
34 *California Health Care Cost and Quality Database is not*  
35 *compromised. This shall include, but is not limited to, requiring*  
36 *encryption.*

37 (2) *For the purposes of paragraph (1), the term “encryption”*  
38 *means the protection of data in electronic form, in storage or in*  
39 *transit, using an encryption technology that has been generally*  
40 *accepted by experts in the field of information security that renders*

1 *data indecipherable in the absence of associated cryptographic*  
2 *keys necessary to enable decryption of the data. “Encryption”*  
3 *includes appropriate management and safeguards of cryptographic*  
4 *keys to protect the integrity of the encryption.*

5 *(e) For purposes of this section, the California Health and*  
6 *Human Services Agency is an agency subject to Chapter 1*  
7 *(commencing with Section 1798) of Title 1.8 of Part 4 of Division*  
8 *3 of the Civil Code.*

9 127672. (a) ~~The Secretary of California Health and Human~~  
10 ~~Services~~ *secretary* shall convene an advisory committee, composed  
11 of a broad spectrum of health care stakeholders and experts,  
12 including, but not limited to, representatives of the entities that are  
13 required to provide information pursuant to subdivision (a) of  
14 Section 127670 and representatives of purchasers, including, but  
15 not limited to, businesses, organized labor, and consumers, to  
16 identify the type of data, purpose of use, and entities and  
17 individuals that are required to report to, or that may have access  
18 to, a health care cost and quality database. The advisory committee  
19 shall hold public meetings with stakeholders, solicit input, and set  
20 its own meeting agendas. Meetings of the advisory committee are  
21 subject to the Bagley-Keene Open Meeting Act (Article 9  
22 (commencing with Section 11120) of Chapter 1 of Part 1 of  
23 Division 3 of Title 2 of the Government Code).

24 (b) The secretary shall arrange for the preparation of a report,  
25 which shall be submitted to the Legislature and the ~~Governor~~  
26 ~~Governor~~, on or before January 1, 2019, based on the findings of  
27 the advisory committee, including input from the public meetings,  
28 that shall, at a minimum, examine and address the following issues:

29 (1) Assessing California health care needs and available  
30 resources.

31 (2) Containing the cost of health care services and coverage.

32 (3) Improving the quality and medical appropriateness of health  
33 care.

34 (4) Reducing health disparities and addressing the social  
35 determinants of health.

36 (5) Increasing the transparency of health care costs and the  
37 relative efficiency with which care is delivered.

38 (6) Use of disease management, wellness, prevention, and other  
39 innovative programs to keep people healthy, reduce disparities  
40 and costs, and improve health outcomes for all populations.

1 (7) Efficient utilization of prescription drugs and technology.

2 (8) Reducing unnecessary, inappropriate, and wasteful health  
3 care.

4 (9) Educating consumers in the use of health care information.

5 (c) (1) A report submitted under subdivision (b) shall be  
6 submitted in compliance with Section 9795 of the Government  
7 Code.

8 (2) The requirement for submitting a report pursuant to  
9 subdivision (b) is inoperative on July 1, 2022, pursuant to Section  
10 10231.5 of the Government Code.

11 (d) Notwithstanding any other law, the members of the advisory  
12 committee shall not receive per diem or travel expense  
13 reimbursement, or any other expense reimbursement.

14 SEC. 4. The Legislature finds and declares that Section 3 of  
15 this act, which adds Section 127670 to the Health and Safety Code,  
16 imposes a limitation on the public's right of access to the meetings  
17 of public bodies or the writings of public officials and agencies  
18 within the meaning of Section 3 of Article I of the California  
19 Constitution. Pursuant to that constitutional provision, the  
20 Legislature makes the following findings to demonstrate the interest  
21 protected by this limitation and the need for protecting that interest:

22 In order to protect confidential and proprietary information  
23 submitted to the ~~Secretary of California Health and Human~~  
24 ~~Services~~, *secretary*, it is necessary for that information to remain  
25 confidential.